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ABSTRACT

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ATTRIBUTION OF FAULT TO RAPE VICTIMS

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Abstract

In recent years, interest and concern about forcible rape has increased. Although rape has traumatic consequences for the victim, she is often blamed, at least partially, for the offense. Attributions of fault to rape victims are important both for the implications for legal procedures and processes, and for the influence that these attributions have on the formation of the attitude that the victim takes towards herself. Psychological tendencies that influence these attributions tend to decrease the accuracy of judgements made about the rape victim.

In an experimental design, the impact of the marital status, physical attractiveness, amount of victim resistance, and immediate reaction of the victim, as well as sex of observer on attributions of fault to hypothetical rape victims were investigated. Participants were 440 undergraduate students at the University of Wyoming. Each participant was given a description of a rape scene that varied along the dimensions of the first four factors of the design, and was then asked to answer questions about the victim, including a question of the degree of fault attributable to her. Significant effects on fault attribution were found for all factors except for the physical attractiveness of the victim.

Discussion of the findings pointed to a discrepancy between legal and moral concepts of justice and distortions that occur in attribution processes. The discrepancy between legal require-

ments for conviction based on victim resistance and advice that is given to women on how to deal with sexual assault was also discussed. Inaccuracies in attributions of fault and those aspects of rape statutes concerning victim resistance were criticized.

Attribution of Fault to Rape Victims

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In recent years, interest and concern about rape has increased dramatically in the United States. Rape crisis and counseling centers have opened their doors in large metropolitan areas and in university towns. In their book, Against Rape, Medea and Thompson (1974) listed 51 rape crisis centers and anti-rape groups in the United States. Local police departments are counseling rape victims on what to expect in the investigation of their claims (Time, 1974), and some departments, such as the Aurora, Colorado police department, are training women in techniques of self defense (Lease, 1974).

Within state governments, there has been a large amount of new legislation proposed to modify existing rape statutes. New legislation in California, Colorado, Florida, and Michigan do not specify the sex of the victim or of the assailant. Legislation passed in Colorado in 1975 has eliminated the corroboration requirement in the presentation of evidence in rape cases, has restricted the conditions under which a victim's past sexual history can be presented as evidence for the defense, and has abolished the "Lord Hale" instruction to juries, which warned that the charge of rape is one easily made, and once made, difficult to defend against. The Colorado legislation also substituted the word "sexual assault" for the word "rape" in the new

law, thus expanding the coverage of the law to include oral and anal sexual offenses. The new Michigan law has made similar changes (Footlick, 1975). In Wyoming, legislation closely resembling the Colorado law was proposed, but not passed in 1975. In addition, state government concern about rape is evidenced by the publication of an Action Against Rape Kit by the Wyoming Governor's Commission on the Status of Women (1975). This kit contains information on Wyoming statutes on sexual offenses, as well as much material on counseling, police and hospital procedure, and techniques of self defense.

The theme of forcible rape has appeared both on television and in print. In the printed media, articles directed towards the general public have appeared in local publications (Hendrix, 1975; McCormack, 1975) as well as in nationally circulated periodicals such as Ladies' Home Journal (1973), Good Housekeeping (Lake, 1971). McCalls (Loenig, 1973), Redbook (Lear,1972), Time (1973, 1974), and Newsweek (1972a, 1972b, 1972c, 1973a,1973b; Alexander, 1974). While I was in the process of writing this paper, Newsweek carried a feature article on rape (Footlick, 1975). Rape has also had a prominent place in feminist publications, such as Ms. (1972; Sweeney, 1973; Green, 1974; Hines, 1974; Kole, 1974; 1975) as well as in local feminist publications, such as the Big Mama Rag (Lease, 1974) in Denver.

One issue of particular importance that has appeared in general readership as well as in feminist publications is the

question of whether women who report being raped are considered to be at least partially responsible for the rape. In both the feminist and the legal literature, writers have argued that the victim is treated as if she were the offender, and that her claims are doubted by the police, the courts, and even by her friends and family (Griffin, 1971; Medea & Thompson, 1974; Brownmiller, 1975; Ms., 1972, 1975; Wood, 1973; Aitken, 1974; Bohmer, 1974). Considering the prevalence of corroboration requirements and "Lord Hale" jury instructions, these charges are not unreasonable. Although new legislation has changed such procedure in some jurisdictions, these changes are extremely recent.

The purpose of this paper is to investigate the extent to which rape victims are considered to be at fault for the rape, and to delineate some of the actions and characteristics of the victims that influence the attribution of fault. The relationship of attribution of fault to the rape victim to counseling and advice, and to legal statutes and procedures will be considered. The implications of the discrepancies between legal notions about rape and psychiatric evidence about rape will be discussed. Discrepancies between legal requirements for rape convictions and advice given to women on how to cope with sexual assault will also be considered.

The Seriousness of Rape

Is rape a serious crime? Does it have negative consequences

for its victims? If the answer to these questions is "NO" then concern for the factors that affect the attribution of fault to rape victims is of little practical concern. As will be shown below, the answer to these questions is an unequivocal "YES."

Forcibile rape is commonly defined as "the use of force or threat of force to have sexual intercourse with a woman without her consent" (Glaser, 1972). The Federal Bureau of Investigation classifies rape as a crime against persons and keeps records on incidents of rape as one of the index offenses of crime rate in the United States. In 1973, 51,000 cases of forcible rape were reported to the police, and 25,720 arrests were made (Federal Bureau of Investigation, 1974). The reporting rate has risen almost 60% since 1968, when 36,500 cases of forcible rape were reported to the police (Federal Bureau of Investigation, 1969). It is not clear whether the increase in the number of reported rapes reflects less reluctance of the victims to call the police, or an actual increase in the incidence of rape. It is probable that rape is still underreported due to victim reluctance to identify herself as a victim of a crime in which her word may be questioned and her morality challenged.[2]

The origins of modern rape law and popular attitudes about the rape experience might imply that rape is not a very serious offense. The word "rape" stems from the Latin "rapere," which means "to seize forcibly, to rob" (Schulz, 1975). In a number of ancient legal codes and in the development of English rape

laws, rape was viewed as a crime against property (Brownmiller, 1975; Smith, 1974). The woman (and her virginity if she was unmarried) was valuable property to her male relatives. Although rape is now considered to be a crime against persons, it originated as a crime against property. Since offenses against property are generally not considered to be as serious as offenses against persons, the origins of rape law might lead us to underestimate the seriousness of the impact of rape on the victim. Popular attitudes expressing the belief that women want to be raped, enjoy being raped, and cannot be raped unless they want to be are not rare in American society.

Another possible source of lack of seriousness attributed to rape is the way that the word "rape" has been used, overused, and abused by feminist writers. Rape is asserted to be the logical end of the continuum of male -- aggressiveness and female--passiveness (Medea & Thompson, 1974), and as the basis for male -- female bonding (Brownmiller, 1975). Sweeney (1973) uses the term "mind rape" to refer to the psychological assault of a woman by a man. The specificity of the meaning of the word "rape", and therefore its power to arouse strong emotions of sympathy for the victim would seem to have been diminished by overkill and misuse of the word by well meaning feminists. The word "rape" (and by association, the act of rape and its consequences for the victim) appears to be headed in the direction of other once powerful words, such as "racism" in becoming overused, loosely applied,

and consequently not taken seriously.

In recent years, it has been suggested that rape be removed from state statutes as a separate criminal offense and be classified as assault (Baril & Couchman, 1973). Since the penalties for assault are not as harsh, and the requirements for proof are not as stringent as those for rape, such a change would probably result in an increase in the extremely low conviction rate for rape offenses. But, such a modification might also have the effect of implying that rape is not any more traumatic than assault in its consequences for the victim. As will be shown below, such an implication would be a distortion of the realities of the rape experience.

Despite popular attitudes, legal origins, poor strategies of feminist writers, and well meaning suggestions designed to increase the conviction rate for rape, rape <u>is</u> very serious in terms of its socioemotional impact on the victim. Recent psychiatric literature on rape (Sutherland & Scherl, 1970; Washington, 1972; Burgess & Holmstrom, 1973, 1974) indicates that rape is traumatic to the victim. Interviews with women who had been raped in Boston in 1972 and 1973 clearly indicate that the rape experience leads to the development of phobias (some related, and some apparently unrelated to the rape). Burgess and Holmstrom (1974) suggest that such a reaction fits within the notion of "traumatophobia," a term originally used to describe the development of fears in war victims (Rado, 1948). In the

Boston data, rape victims often reported having guilt feelings about the incident, developed both physical and psychological reactions, had an increasing number of nightmares, and often had problems resuming sexual relationships with men (Burgess & Holmstrom, 1974). The seriousness of the impact of rape on the women studied by Burgess and Holmstrom (1974) led them to term the reaction to rape, "Rape Trauma Sundrome." Other psychiatric material on rape has made essentially the same points about rape (Washington, 1972; Sutherland & Scherl, 1970). Even a brief, casual reading of the Burgess and Holmstrom (1973, 1974) reports clearly indicates that the popular attitude that women enjoy rape is based on a perverse notion of the meaning of the word "enjoyment." Rape is a traumatic experience with both acute and long term consequences for the victim.

Why is the victim blamed?

There are several factors that lead to blaming victims of rape. Not only is the victim blamed by others, but she, herself, often believes that she is to blame (Burgess & Holmstrom, 1974; Footlick, 1975; Sutherland & Scherl, 1970). A number of writers have suggested that many Americans believe that women want to be raped by a fantasized tall, dark, and handsome stranger who is overcome by the beauty of the alleged victim and responds with "natural" uncontrollable male impulses to her irresistable charms (Brownmiller, 1975; Griffin, 1971; LeGrand, 1973; Schulz, 1975; Wyoming Governor's Commission on the Status of Women, 1975). A

similar attitude has been noted in popular literature (Brownmiller, 1975; Chappell, Geis, Schaffer, & Siegel, 1971). Until recently, the views expressed in most of the psychiatric literature on rape coincided with popular attitudes. Sutherland and Scherl (1970) point out that when the psychiatric literature did consider the role of the victim in rape, it mainly considered the possibility that she had encouraged the rapist, either consciously or subconsciously.

Another source for blaming the rape victim arises inadvertently out of the development of the field of victimology. Work from this perspective has proliferated in recent years, as evidenced by the publication of the five volume Victimology: A New Focus (Drapkin & Viano, 1974b, 1975) and a reader by the same editors addressing a broad range of issues in the field of victimology (Drapkin & Viano, 1974a). Although victimology originally was oriented to a broad study of the interaction of victim with offender, it has tended to concentrate on the victim's responsibility for the criminal act. Just as early work in criminology searched for fault in the accused, victimology has looked for fault in the victim, especially in cases of rape (Weiss & Borges, 1973). Although victimology research on forcible rape has not indicated a sizable incidence of victim precipitated rapes (Amir, 1971), focus on the victim does tend to lead us to see the victim as the origin of her troubles. Callous treatment of the victim in some victimology literature is evident in

Amir's (1971) assertion that the rape victim almost always has some fault for the offense. Perhaps even more offensive is Amir's (1971) discussion of the relationship of trauma to rape. Although he suggests that rapists may have been traumatized by an "overseductive" female in their boyhoods, the notion that rape is traumatic for the victim is overlooked. (Weiss & Borges,1973).

In many jurisdictions, legal statute and procedure lend themselves to blaming the victim. There is considerable evidence that the woman's account is not trusted (LeGrand, 1973; University of Pennsylvania Law Review, 1968). In the United States, as well as in other countries, corroboration of material evidence and of the victim's account of the rape is required (Sebba, 1968). If corroboration is not required, the judge is often required to warn the jury that rape is a charge easily made, and once made, difficult to defend against. Such concern with the possibility of false accusation and the unwillingness to admit the complainant's testimony on its own is unique to cases of rape. Requirements and procedures similar to the corroboration requirement and the Lord Hale warning are not found in the procedure prescribed for legal consideration of any other offense. (LeGrand, 1973; Friedman, 1972). The impact of new legislation that removes the corroboration requirement and forbids the issuance of the Lord Hale instruction is yet to be seen. It would seem likely, though, that these changes in judicial procedure will act to alleviate the forces that lead to doubting and blaming the

rape victim.

The Social Psychology of Attribution of Fault

When an observer is asked to judge the degree of responsibility that an actor has for an act, the observer usually must make inferences about responsibility from partial information about the actor and the act. Observers will take partial information and supplement it with inferences that may or may not be accurate (Heider, 1944, 1958; E.E. Jones & Davis, 1965). When the observer is faced with an incomplete cognitive unit, the tendency is to complete the cognitive unit in a balanced fashion (Heider, 1958). This tendency has been termed the transitivity assumption. The desire for balance is often more powerful than the concern for accuracy of cognitions.

One component of completing a cognitive unit in a balanced fashion is achieving perceived justice. There is a tendency in American society to believe that people get what they deserve and deserve what they get (Lerner & Simmons, 1966). Belief in such a "just world theory" leads the observer to complete the cognitive unit in a manner that allows him to maintain his belief in justice. If he already has a cognition that asserts that a "bad" effect has occured to the actor,e.g., she has been raped, he is likely to believe that she must be a bad person, or that she must have done something to cause the rape. If bad things happen to bad people, then if a person has experienced a bad thing, that person must be bad.

In addition to the tendency to complete incomplete cognitive units in a balanced and psychologically just fashion, there is also tendency to see actors as origins of their own fates. Heider (1944) suggested that there exists, in modern Western societies, a tendency to perceive persons intropunitively, i.e., to see them as causes of their successes and failures. This tendency contrasts with the perspective of the actor, who is biased towards believing that acts he is involved in are strongly influenced by outside forces, especially if the effects are undesirable (E.E. Jones & Nisbett, 1971).

The transitivity tendency, the desire for perceived justice, and the intropunitive tendency influence the observer as he makes inferences about the fault of the actor. Observers tend to be confident of these inferences (E.E. Jones & Nisbett, 1971). But, as Kelley (1967) has pointed out, high subjective validity, i.e., a high level of confidence that one has made an accurate inference, is not a sound basis for the objective validity (veridicality) of the inference. These three tendencies can lead to distortions in the attribution of fault to rape victims by overestimating the amount of fault that the victim should justly be attributed for the rape.

The Importance of Attributions of Fault

Inferences of fault to the victim, and the accuracy of these inferences are highly important in two ways. First, jurors and judges are asked to make such inferences about the assailant and

the victim in rape cases. Attribution of fault to the victim would act to decrease the amount of fault attributed to the assailant, and would lower the chance of conviction in rape cases. Although the veridicality of inferences, i.e., whether an inference is accurate, has not been sufficiently investigated in the social psychological work on person perception in the past fifteen years, this issue is crucial to legal justice and proceedings. Justice in the legal sense may not be best served by the justice, transitivity, and intropunitiveness tendencies that influence the judgements of the observer. To the extent that the observer makes inferences that are not accurate, and that do not conform with legal standards of what is just and fair, such inferences are problematical.

Earlier studies concerning crimes against persons have indicated that mock jurors will assign harsher punishment to a defendant when the victim is attractive than when the victim is not attractive (Landy & Aronson, 1969). It may be that the observer's conceptions of justice and fairness, as influenced by the justice, transitivity, and intropunitiveness tendencies, may be quite different from legal conceptions of justice. Jurors are asked to make decisions on the basis of legal conceptions of justice, but is likely that the real basis for such judgements is a psychological conception of justice.

Second, attribution of fault to a rape victim could affect the way in which she comes to view herself. There is psychiatric

evidence (Burgess & Holmstrom, 1974) that rape victims blame themselves for the rape and develop feelings of guilt concerning their role in it. The attitudes of the generalized other and of significant others would seem to be important sources of influence on the attitude that the victim forms towards herself. The need for support from significant others is stressed in materials disseminated by rape counseling centers. For example, the D. C. Rape Crisis Center (1974), in a publication entitled "A Note to Those Closest to Rape Victims: Families, Lovers, and Friends," stresses the need for significant others to comfort and support the victim. In this light, it would be important that significant others interpret the role of the victim in the rape in the same way as the victim does. But, the basic discrepancy between the actor and the observer perspectives (E.E. Jones & Nisbett, 1971) may lead to discrepancies between inferences made by significant others and inferences made by the victim about her fault in the rape.

Factors Associated with Attribution of Fault to Rape Victims

What specific factors might be associated with the attribution of fault to the rape victim? In this paper, five possible factors will be considered. These five factors were selected for empirical investigation on the bases of results of previous studies, relevance to legal issues, controversy in the legal literature, possible discrepancies between law and counseling, and attribution theory in social psychology. The five factors

are: 1) the marital status of the victim; 2) the physical attractiveness of the victim; 3) the victim's resistance of the assailant; 4) the immediate psychological reaction of the victim to the rape; and 5) the sex of the person who is evaluating the victim, i.e., the sex of the observer.

Marital Status of the Victim

From the distributive justice perspective, the respectability of the rape victim is relevant to the attribution of fault. Apparently, it is also relevant from a legal point of view, judging from the frequency that the term "chastity", i.e., respectability of the victim, is mentioned in legal discussions of rape. Respectability and chastity are related to marital status in that greater respectability has been found attributed to married and virgin females than to divorced females (C. Jones & Aronson, 1973). Variation of marital status is an indirect measure of the effect of the respectability or "chastity" of the victim on the attribution of fault to the victim. If the observer is biased to believe, in the absence of any solid information, that a less respectable victim is more likely to have encouraged the rapist, and that the less respectable the victim, the more justified the rape, it is reasonable to expect variation in fault attribution to victims who vary according to marital status.[3]

In their study of 151 complaints of sex offenses (81% consisting of rape or indecent sexual acts with force) recorded at Israeli Police Headquarters, Sebba and Cahan (1975) found a

statistically significant relationship between the marital status of the victim and the disposition of the case. If the victim was married, 38% of the cases resulted in conviction, while only 27% of the cases involving unmarried victims (never married, divorced, and widowed) resulted in conviction. A more detailed analysis of the conviction rate in cases where the victim was unmarried indicated that divorced and widowed victims were the most significant contributors to the lower conviction rate; for such victims, the conviction rate in their cases was 9%.

Since the Sebba and Cahan (1975) study investigated the effect of marital status of the victim on conviction rates, the results provide only indirect evidence that the unmarried, particularly those previously married, victims were considered to be more at fault than the married victims. Direct evidence of the relationship between marital status and attribution of fault is provided by a study of the reactions of University of Texas undergraduates to descriptions of hypothetical rape situations. (C. Jones & Aronson, 1973). Participants in the study read different versions of a rape or an attempted rape scene that varied in terms of the marital status of the victim. The rape victim was described as either married, divorced, or as a virgin. Participants were asked to rate the victim on a scale from -10 to +10 in response to the question "How much do you consider the crime to be the victim's fault?"

In both the rape and attempted rape cases, greater fault was attributed to the married and virgin victims than to the divorced victim. These results do not coincide with those of Sebba and Cahan (1975). C. Jones and Aronson (1973) argued that individuals attributed least responsibility to the divorced victim because she was the least respectable. In a just world, a respectable victim must provoke her misfortune if it is to be perceived as deserved. The misfortune of the divorced victim can be attributed to her "low" moral character. Since the two studies on marital status and attribution of fault to rape victims disagree in their findings, there is a need for further investigation of this relationship.

Physical Attractiveness of the Victim

In terms of distributive justice, it is possible that people would see the physically attractive victim as having "asked for it" and therefore, as being more responsible for "what she got." If, as some popular authors have suggested (Astor, 1974; Brownmiller, 1975), there is indeed an inference from physical attractiveness to seductiveness in American attitudes, then it is reasonable to expect that the attractive victim will receive greater fault attributed to her.

Victim Resistance

The manner in which the victim acts when accosted seems to be a likely influence on the degree of fault attributed to the victim. Since forcible rape can occur only if the victim does

not consent, jurors and other persons must make inferences concerning the extent to which the victim may have consented to sexual intercourse and is only "crying rape" after the fact.

In most jurisdictions, victim resistance is necessary or very important in distinguishing between forcible rape and consensual sexual relations. Even new statutes on rape require resistance or a "reasonable" explanation for nonresistance in order to allow for a conviction for rape. Lack of sufficient victim resistance might be interpreted to mean consent. Thus, the victim who struggles would probably be accorded less fault for the rape, and would have a higher chance of obtaining a conviction.

Immediate Reaction of the Victim

The immediate reaction of the victim to the rape could also be an influencing factor. The results of a survey of women who had been raped (administered through questionnaires distributed through feminist newspapers and at conferences on rape) indicated that there are two major immediate reactions to being raped. "The victim may respond by crying and hysteria, but more often she becomes supernaturally calm" (Medea & Thompson, 1974). A similar pattern was observed by Burgess and Holmstrom (1973,1974) in their study of victims of forcible rape in Boston. In the hours after the rape occured, the women showed two emotional styles: expressed style, "in which feelings of fear, anger, and anxiety were shown through such behavior as crying, sobbing,

smiling, restlessness, and tenseness;" and the controlled style, "in which feelings were masked or hidden and a calm, composed or subdued effect was seen" (Burgess & Holmstrom, 1974).

In a study of thirteen young women who had been forcibly raped, Sutherland and Scherl (1970) found just about the same variation in immediate reactions of the victims. Although both of these reactions indicate that the victim is distressed (Burgess & Holmstrom, 1974), and possibly is in a state of shock, it seems possible that an observer of the victim would be more likely to infer fault from calmness than from crying and hysteria. Calmness may be incorrectly interpreted to indicate that the victim was not phased by the assault and perhaps even enjoyed it. Such an inference would lead to a higher degree of fault attributed to the calm victim than to the hysterical victim.

Sex of the Observer

How would the sex of the observer affect the amount of fault attributed to the victim? Since feminist writers have claimed that rape laws and American attitudes about rape are sexist, one suspicion would be that females would attribute less fault to the victim than males would. Concerning this possibility, C. Jones and Aronson (1973) reported (with an expression of surprise) the absence of sex differences in attribution of fault in their data. Explication of attribution theory in social psychology suggests that predictions of the existence and direction of sex differences is rather complicated. Such predictions cannot be

made with great confidence. But, the possible patterns of sex differences can be outlined.

One variable of concern is hedonic relevance. An act has hedonic relevance to the observer if the act has personal significance to the observer in either a negative or positive direction. Does it undermine or support the observer's values? Does it fulfill or block the observer's purposes (E.E. Jones & Davis, 1965)? If there is a very low degree of hedonic relevance for both male and female observers, we would expect observers of both sexes to follow intropunitive tendencies (Heider, 1944) and not differ in the amount of fault attributed. On the other hand, if the act has more hedonic relevance to observers of one sex than to those of the other, or if relevance is of opposite valence, we would expect to find differences in attribution of fault.

E.E. Jones and Davis (1965) discuss hedonic relevance mainly in terms of direct benefits or detriments to the observer. But, there is no reason that such effects could not occur through the belief of the observer that he or she is similar or dissimilar to one of the participants in the act observed. E.E. Jones and Nisbett (1971) indicate that, under certain conditions, an observer can become more empathetic to the actor. An observer who perceives similarity between the self and an actor would be likely to make defensive attributions about the act in the way that the actor would; the empathetic observer would be likely to attri-

bute less fault to the actor. But, it is also possible that an observer would perceive dissimilarity between the self and the actor. In such a case, the observer would be likely to attribute more fault to the actor than a passive observer would. Thus, the attribution made by the observer about the actor depends on whether the observer perceives similarity or dissimilarity between the self and the actor.

In the situation of rape, such perceptions and the resulting attributions are rather complex, since there are two actors to be observed, whose fates and responsibilities are interrelated. The more responsible the victim, the less responsible the assailant. Consider the case of the female observer. If she puts herself in the place of the victim, i.e., is empathetic towards her, she would see her own fate and self esteem as positively related with that of the victim. Therefore, she would make defensive attributions characteristic of the victim-actor; she would attribute less fault to the victim than a passive observer would. In everyday parlance, this attitude is represented by the saying, "There but for fortune go I." But, if the female observer believes that rape is something that happens only to other women, she would not want to perceive similarity between herself and the victim. Rather, she would be inclined to see herself as different from the victim-actor, and see her own fate as negatively interrelated with that of the victim. She would be likely to attribute more fault to the victim than a passive

observer would.

Which belief is the female observer likely to have? The literature on similarity, attraction, and liking presents a confusing picture. Generally, there is a tendency to be attracted to those who resemble the self and to perceive similarity with such persons. To the extent that this tendency is operating, the female observer should perceive herself as similar to the victim, since they are both females and could both suffer the common fate of rape. But, there are also studies that indicate that if the fate of the other is undesirable, the observer will not perceive similarity of the self to the other (Novak & Lerner, 1968; Peres, 1971). To the extent that this tendency is operating the female observer would not want to perceive similarity with another female who has suffered an undesirable fate. In fact, she may be motivated to perceive dissimilarity and therefore attribute more fault to the victim. There does not seem to be any way of predicting whether the observer will perceive similarity or dissimilarity between herself and the victim. What is clear, though, is the difference in the patterns of response to the victim under these two conditions. If similarity is perceived, the female observer will probably be less harsh on the victim than if dissimilarity is perceived for defense reasons. Both responses would differ from the intropunitive response of a passive observer, and both would be defensive attributions in that they would function to protect the self esteem and ego of

the observer.

How would male observers relate to the rape situation? While the role of victim has very low hedonic relevance for the male observer, the possibility of being accused of rape is of higher hedonic relevance. As was the case with the female observer, the male observer might perceive similarity or dissimilarity between himself and the male actor-accused rapist. Perceived similarity with the male rapist would result in greater attribution of fault to the victim, since the faults of the rapist and victim are inversely interrelated. An opposite pattern would follow if the male observer perceived dissimilarity between himself and the rapist.

Whether male or female observers identify positively or negatively with the rapist or victim, respectively, would very likely depend on the type of rape situation being observed. It would be reasonable to expect less positive indentification of most adult males with the rapist when the rapist accosts an unknown female on the street than when the act takes place in an intimate, indoors setting in interaction with a female with whom the accused rapist has had sexual relations. Unfortunately, more precise and confident predictions cannot be made at this point. It would seem, though, that the investigation of the effect of sex of observer on attribution of fault would be worthwhile.

The Study

The present study was an investigation of the effect that

each of five variables discussed above has on the degree of fault attributed to rape victims. Evaluators were furnished with descriptions of a rape scene which systematically varied along the first four factors. The description was adapted from the one used by C. Jones and Aronson (1973). Slight modifications were necessary to adapt the description from the Austin, Texas locale used by C. Jones and Aronson (1973) to Laramie, Wyoming. These modifications were necessary because specific landmarks were mentioned in the Austin version that would have been meaningless and possibly confusing to University of Wyoming students in Laramie who participated in the present study.

The decision to use an experimental design was based on several factors. First, the alternative of using actual cases would have been less likely to provide direct evidence of attribution of fault. This is the problem in interpreting the results of the Sebba and Cahan (1975) study. Second, the use of actual cases precludes any attempt to manipulate variables systematically and to maintain independence among predictor variables, since these variables would be confounded in real rape cases. An experimental design allows the researcher to avoid these problems. Third, the lack of agreement between the results of the C. Jones and Aronson (1973) study and the results of the Sebba and Cahan (1975) study suggested the importance of pursuing the investigation of the relationship considered in these two studies. One purpose of the study presented in this paper was to partially

replicate and expand on the C. Jones and Aronson (1973) experiment.

METHOD

Participants

Participants in the study were 440 University of Wyoming undergraduates who were enrolled in introductory sociology or introductory anthropology classes during the Fall, 1974 semester. The participants responded to the questionnaire in their classrooms during class periods. The questionnaire administration was supervised by the author and a male, sociology graduate student. Male students made up 46% of the sample, while 54% of the students were female.

Materials and Procedure

The participants were told that the aim of the study was to investigate the manner in which people made decisions concerning criminal cases. Each student was given an account of the rape scene, a description of the assailant, and a description of the victim. The description of the assailant was maintained constant for all versions of the rape. In the account of the scene, the amount of struggle was varied (two levels). In the description of the victim, the marital status of the victim (three levels), the physical attractiveness of the victim (two levels), and the immediate reaction of the victim (two levels) were varied. Thus, there were 24 different versions of the information about the rape presented to the participants. Each participant read only

one account of the rape. The material presented followed closely that used by C. Jones and Aronson (1973).

The information presented to the participant was as follows (with variations indicated in capital letters and separated by slashes):

> Following a night class at the University, Judy Sandler walked across campus toward her car, which was parked two blocks off Grand Avenue. (See police description of the victim, below). The defendant, Charles Engels, was walking across Prexy's Pasture in the same direction as the victim and began to follow her. (See police description of the defendant, below).
>
> Less than a block from the victim's car, the defendant accosted the victim, partially stripped her and raped her. The victim DID NOT STRUGGLE WITH THE DEFENDANT/ STRUGGLED WITH THE DEFENDANT, KICKING, BITING, AND SCRATCHING AT HIS FACE. A passerby heard the victim's screams and phoned the police who arrived within a few minutes and apprehended the defendant. The victim was taken to a hospital and given a medical examination.
>
> Police Description of the Victim
>
> SHE IS A DIVORCEE, AND THUS, OF COURSE, WAS NOT A VIRGIN PRIOR TO THIS INCIDENT/ SHE IS MARRIED, AND THUS, OF COURSE, WAS NOT A VIRGIN PRIOR TO THIS INCIDENT/ A MEDICAL EXAMINATION INDICATED THAT SHE HAD BEEN A VIRGIN PRIOR TO THIS INCIDENT. She was described by the police as ATTRACTIVE / UNATTRACTIVE in appearance. Upon their arrival, the investigating officers found the victim OUTWARDLY CALM/ SOBBING UNCONTROLLABLY.
>
> Police Description of the Defendant
>
> The defendant is a muscular man, 5' 10", 175 pounds, and is 26 years old. He has brown hair, blue eyes, and was wearing tan trousers, a blue knit shirt, and brown shoes. He worked as an auto mechanic at a local service station.

After reading the account of the rape, the victim description, and the defendant description, the participants were asked

to turn to the next page and answer a number of questions about the defendant and the victim. These questions asked the participant to recommend the sentence (if any) that the defendant should receive, and asked for evaluation of the victim on twelve questions, two of which were filler items. The questions about the victim asked for evaluations of how much fault should be attributed to the victim, whether she should feel ashamed of herself, how significant others would react to her, and how she would cope with the rape experience. Each question was answered on a scale from -10 to +10, on a line for which verbal labels were provided at the -10 and the +10 markings. Participants were asked to circle the numerical response from -10 to +10 that best represented their feelings about the question. They were also asked to indicate their own age and sex.

Discussion with the groups of participants after completion of the questionnaire indicated that they had not been aware of the purpose of the questionnaire. These discussions also indicated that they had not been aware that there was more than one account of the rape, or more than one description of the victim. At this point, the purpose of the study and the existence of 24 different variations of the rape information was revealed to the participants and the purposes of the study were discussed with them.

RESULTS

In the present paper, the analysis of the effects of the

five predictor variables on criterion variables was restricted to one criterion -- that of attribution of fault to the victim. The question was worded exactly as it had been in the C. Jones and Aronson (1973) study: "How much do you consider the crime to be the victim's fault?", where -10 was labelled "not at all" and +10 was labelled "completely." Thus, the higher the positive score selected, the greater the amount of fault attributed to the victim.[4]

A five factor unweighted means analysis of variance was used to investigate the effects of the five factors on attribution of fault to the victim. An unweighted means analysis was performed because there were unequal numbers of persons in each of the 48 cells of the design. The analysis included the five factors of Struggle (two levels), Marital Status of the Victim (three levels), Attractiveness of the Victim (two levels), Immediate Reaction of the Victim (two levels), and Sex of Evaluator/Observer (two levels). Out of 440 participants, only one failed to respond to the attribution of fault question, decreasing the sample size for the purpose of this analysis to 439.

For all evaluators combined, the unweighted mean response was -4.88. Table 1 presents the means and standard deviations for attributions of fault, broken down by each of the four main effects that were significant. All means and standard deviations in Table 1 are unweighted.

The amount of struggle the victim engaged in had a significant effect on the amount of fault that was attributed to her ($F = 4.49$, $df = 1/392$, $p < .05$). If the victim struggled, she was rated lower on attribution of fault than if she did not struggle. Marital status of the victim also had a significant effect ($F = 4.40$, $df = 2/392$, $p < .05$). The married victim was attributed the least amount of fault, the victim described as a virgin received a higher amount of fault, and the divorced victim received the highest amount of fault for the rape. The difference between the married victim and the divorced victim was significant ($F = 8.54$, $df = 1/392$, $p < .01$); the difference between the married victim and the virgin victim approached conventional statistical significance ($F = 3.65$, $df = 1/392$, $p < .10$); the difference between the virgin victim and the divorced victim did not reach statistical significance ($p > .10$).

The physical attractiveness of the victim did not have a significant effect ($p > .10$). The immediate reaction of the victim to the rape affected attribution of fault at a level approaching conventional levels of statistical significance ($F = 3.55$, $df = 1/392$, $p < .10$). The victim who appeared calm was attributed greater fault than was the sobbing victim. Finally, sex of the evaluator had an effect on attribution that very closely approached significance ($F = 3.82$, $df = 1/392$, $p < .055$). Males attributed greater amounts of fault to the rape victim than females did.

DISCUSSION

Overall, the results indicate that the rape victim is blamed to some extent for the crime. Since feminists who have criticized the judicial system for turning victims into offenders (in terms of attributing blame) have not quantified the degree to which they believe this assertion to be true, it is difficult to evaluate whether the results of this study substantiate their claims. It would appear that there is some blaming of the victim, but not nearly as much as critics claim there to be.

Compared to the C. Jones and Aronson (1973) study, the victim was not blamed as much in the present data. Since the earlier study did not report the variances for mean scores presented, it is not possible to make a direct comparison between the results of the two studies. But, if we assume that the variance in the C. Jones and Aronson (1973) data was not any larger than that in the present data (SD = 5.32, overall), we would find that the overall unweighted mean for the present data (-4.68) is significantly smaller than the unweighted mean for the C. Jones and Aronson (1973) data (-3.76, N =119; t = 2.05, df =556, $p < .05$). Only if the variance in the earlier study was larger than the variance in the present study would the results not differ significantly.

With a potential range of twenty points, a standard deviation of 5.32, overall, is fairly large. This rather high

measure of variation suggests that in the present data, there is not a strong consensus on the fault attributable to the rape victim.

It might be argued that the information about the rape given to the participants did not have a high degree of mundane realism. To some extent, this criticism would be justified, as it would be in any experiment that does not take place in a natural setting. Yet, the variance that was introduced into the variables of struggle and immediate reaction appear to be representative of variation along these lines in real rapes. In his study of forcible rape in Philadelphia, Amir (1971) reported that over half (55%) of the victims displayed nonresistance behavior, while 45% either resisted the offender or put up a strong fight. Similarly, Agopian, Chappell, and Geis (1974) found that 57% of the victims in the cases they studied in Oakland did not resist the rapist. Therefore, it makes sense to introduce variation on this dimension into an account of a rape situation This variance is grounded in the empirical study of real rape cases.

Concerning the immediate reaction variable, Medea and Thompson (1974) indicate that there are two major patterns of immediate reaction -- crying and calm. Both can be indicative of shock and agitation. This same dichotomy has been found in psychiatric investigations of rape victims (Sutherland & Scherl, 1970; Burgess & Holstrom, 1973, 1974). Approximately 50% of the victims

show each type of response. Thus, introduction of the sobbing -- controlled variance in the description of the immediate reaction of the victim is well grounded in real life reactions of rape victims.

One feature of this study suggests that the amount of fault attributed to the rape victim underestimates the amount that would be attributed by observers evaluating a fuller spectrum of rape situations. The rape scene used is described as occuring outdoors. Variation in the location of rape incidents is noted in the 1974 study of reported rapes in Oakland (Agopian, Chappell, & Geis, 1974). In their study of sexual offenses in Israel, Sebba and Cahan (1975) found that the highest conviction rate occured for outdoor offenses. For offenses that took place in a building, the conviction rate was 21%; in a vehicle, the conviction rate was 22%; and outdoors, it was 47%. Although conviction rate is only an indirect indicator of attribution of fault to the victim, it would be reasonable to expect a greater amount of fault attributed to victims who were raped in their own residences, especially if the assailant had been admitted by the victim. The presence of the offender in the residence of the victim might lead an evaluator to infer consent on the part of the victim.

On the other hand, if the assailant had been described as having a weapon, making threats, or as being extremely physically large and strong, the amount of fault attributed to the

victim would probably have been lower.

Marital Status of the Victim

Concerning marital status, the results of this study coincide with those of Sebba and Cahan (1975) but are in direct opposition to those of Jones and Aronson (1973). While C. Jones and Aronson (1973) found greater fault attributed to the more respectable victim, the results of this study found greater fault attributed to victims of lower respectability. The present data indicated that married females are attributed the least fault and divorced the most, while the C. Jones and Aronson (1973) study found the opposite result. Since data from the present study was collected using descriptive materials and procedures that very closely resembled those used by C. Jones and Aronson (1973), this discrepancy is very puzzling.

What could account for the difference in results? Both studies used undergradute students as participants. Although the students were from different universities, a viable explanation of the difference on this basis is unlikely. Although changes in attitudes towards rape appear to have occured in the interim between the two data collection phases, such a change would most likely be reflected in a general change -- as was seen in the smaller amount of fault attributed to victims in the present study. It would not expalin a reversal in the amount of fault attributed to victims of different marital statuses.

C. Jones and Aronson (1973) argue that the participants in

their study attributed fault to different victims in accordance with an attempt to maintain a belief in a just world. A victim may "deserve" an undesirable fate because of her undesirable character or because of a behavior that precipitated the unfortunate event. If the victim is of low respectability, the evaluator can attribute her misfortune to her character and maintain a just world belief. This would account for the low amount of fault attributed to the divorced victim. But it would not be "just" for a victim of respectable character -- the married victim -- to suffer an undesirable fate if it were not for some action on her part that provoked the rape. This would account for the high amount of fault attributed to the married victim.

But, what if the observers did not attempt to maintain a belief in a just world, or used additional cognitions to maintain this belief? In this case, it is likely that an observer would infer that a victim of low respectability -- the divorced victim -- engaged in behavior that provoked the attack and therefore had fault for it. The respectable -- married -- victim is of desirable character and probably would not engage in behaviors that would bring about undesirable outcomes, such as rapes. Perhaps the participants in the present study were not as oriented towards maintenance of belief in a just world. Or, perhaps they did not heavily rely on their responses to the attribution of fault question to maintain belief in a just world. Perhaps, responses to other questions were used as additional cognitions to maintain this belief.

Further investigation of this discrepancy is clearly needed.

One area to investigate is the possibility of differences in the instructions given to the two sets of participants. A second area might be to investigate whether the participants in the C. Jones and Aronson (1973) study (who were psychology students) had been exposed to the idea of the just world theory prior to participation in the study. At this point, there is not much more that can be said about this discrepancy.

Physical Attractiveness of the Victim

The results concerning the physical attractiveness of the victim did not support the contention that attractive females would be seen as seducing or luring the potential rapist, who then attacks her because he can no longer control his "natural" male impulses. It is possible, though, that the failure of this variation to have an effect was due to the mild wording of the two conditions: "she was attractive/she was unattractive." References to manner of dress or walk, etc. might have evoked a greater variation of responses. This possibility is an empirical question that can be settled through further research in this area.

Victim Resistance

The results concerning the effect of victim resistance support the contention that if a woman struggles with the assailant she will be perceived as having less fault for the rape. The result corresponds strongly with both popular attitudes about rape and legal requirements for conviction. One common

attitude about rape is that "If a woman hasn't resisted, she hasn't been raped" (Wyoming Governor's Commission on the Status of Women, 1975). Rape laws in most jurisdictions, including new legislation, require proof of either resistance or evidence that the victim did not resist for fear of death or bodily injury. Thus, it would seem that the attributions made by the participants are "just" and "fair" in the legal as well as the psychological sense.

Further consideration of this issue strongly suggests that apparent "fairness" of these attribution patterns based on differential resistance is not substantiated. If popular attitudes and legal requirements for conviction are correct, then many women who report being raped are making false accusations. Amir (1971) found that 55% of the victims did not resist the rapist. Similar patterns were found by Agopian, Chappell and Geis (1974) and by McDonald (1971). If resistance is necessary for a sexual act to be considered to be rape, then a large percentage of reported rapes are not rapes.

Why might so many women fail to resist the attacks? Up until the past five years, many police departments advised women who were attacked not to resist (Time, 1974). If women are so advised, it is reasonable that they may heed these warnings and not resist. Another possibility (Weiss & Borgess,1973) is that women in American society have been socialized against violence and have been taught to expect men to defend them.

Thus, it would not be very strange to find that women do not defend themselves when attacked by a male.

In an effort to modify the responses of women to rape assaults, advice given by both feminist groups and law enforcement agencies has changed in recent years. Women are now being advised to learn how to defend themselves and to resist intelligently and calmly when attacked. In a book that purports to teach women how to defend themselves physically as well as psychologically against rape, Medea and Thompson (1974) suggest that the victim resist the attacker, using self defense techniques that are illustrated in the book.[5] Other feminist materials strongly suggest that women learn techniques of self defense (Lease, 1974; Rape Prevention Center). The Wyoming Governor's Commission on the Status of Women (1975) included a section in its Action Against Rape Kit that provides suggestions for self defense when attacked, e.g., scream, use a hatpin, kick the assailant in the shins, etc. The Denver District Attorney's Crime Commission (1974) has published a pamphlet that advises women to scream, try to talk their way out of the rape, and to physically resist as a last resort.

Although there had been a marked increase in efforts to encourage and teach women to resist rapists, two aspects of the advice given should be noted. First of all, some of the advice directs women to stall, to talk to the assailant, to personify themselves, and to use other nonphysical methods of preventing

the rape (Medea & Thompson, 1974; McCormack, 1975; Denver District Attorney's Crime Commission, 1974). Physical resistance is not always advised as a first resort. Such advice is likely to decrease the amount of physical resistance put up by the woman. Second, there is a prominent theme of caution, permeating almost all of the advice literature, that warns the woman to temper her decision to resist by a knowledge of her abilities and limitations to successfully resist the attacker. If she is not capable of successful physical resistance, physical struggle is not strongly advised (Medea & Thompson, 1974; Denver District Attorney's Crime Commission, 1974; Wyoming Governor's Commission on the Status of Women, 1975). The most explicit example of the warning theme is presented in the Rape Prevention Tactics section of the Wyoming Governor's Commission on the Status of Women (1975) Action Against Rape Kit. The warning is: "Think, don't panic. Creating a moment to escape should be the only reason to physically resist your attacker unless he has no weapon and you feel that you are stronger than he is. Fighting back is a choice only you can make in a particular set of circumstances." In summary, the advice currently being disseminated stresses intelligent, calm resistance, based on education in self defense techniques, with a warning that resistance may not always be the wise decision.

Apparently, this warning is good advice. Amir (1971) noted that if a woman resisted the assailant, but failed to escape,

her chances of being hurt were higher than if she did not resist. In their study of rapes in Oakland, Agopian, Chappell, and Geis (1974) found that of the 36 victims who submitted to the attacker, only four were beaten, in contrast to thirteen victims who actively fought back, of whom seven were beaten. McCormack (1975) points out that one judo expert has warned that screaming, uncontrolled kicking and use of a hatpin can increase the chances that a rape victim will be killed in the process.

In light of popular advice, common nonresistance reactions to rape, and the inadvisability of uneducated and unsuccessful resistance, it seems that popular attitudes, legal requirements, and the attributions of fault made by the participants in this study are somewhat unfair to the victim who does not resist. Although rape statutes have been modified in many progressive directions, those sections which concern nonconsent have been modified in a manner which indicates either sexism on the part of the legislators, or blatant ignorance of the realities of reactions to rape. These laws, which require some amount of resistance or a "good" reason for nonresistance, such as a substantial basis for fear of death or bodily injury, place the woman in a dilemma. Although resistance is not advisable if it is based on uneducated methods of self defense or is not appropriate for the situation, it is necessary for conviction and possibly for maintenance of the victim's belief that she is a good, moral, and honorable person.

The Change from the Nonconsent Standard to the Resistance Standard

In 1952, Durham pointed out that in almost all jurisdictions, nonconsent was necessary to prove that rape had occured. Since nonconsent is defined as a state of mind, it is difficult to measure reliably. Dworkin (1966) suggested that the nonconsent standard be replaced by a resistance standard, which would consist of definite behavioral acts. Although the use of resistance as a standard of nonconsent has been criticized as sexist and as being out of touch with the realities of rape (LeGrand, 1973), new statutes, such as the new Colorado legislation and the proposed Wyoming legislation, appear to have made the transition from nonconsent to resistance standards. There seems to be a strange notion of logic that pervades the adoption of resistance standards to replace the old standards of nonconsent. Since nonconsent is a state of mind, it is difficult to measure. On this basis, it is reasonable to consider abandoning it and searching for a new standard. But, is the resistance standard any better? An analysis of the new resistance standard suggests that this new standard is not a significant improvement over the older standard of nonconsent.

When Dworkin (1966) suggested that a resistance standard be substituted for the nonconsent standard, he argued that the new standard would be an improvement because, as a set of definite behavioral acts, it could be more reliably measured. Under the resistance standard, new legislation considers rape to have

occured if the victim resisted the attacker or did not resist because she was physically helpless or had reason to believe that her life or her bodily safety was in danger if she resisted. Thus, new legislation allows the victim to not resist if she believes that she is in danger of bodily injury or death. How are jurors and judges to determine if this condition has been met? Obviously, their judgement requires an inference about a state of mind. Thus, new legislation using a resistance standard does not escape the necessity of making judgements about beliefs, emotions, and other nonobservable components of the state of the victim's mind. The benefit of greater reliability of measurement Dworkin (1966) claimed for a resistance standard does not seem to be substantiated by an analysis of new legislation that incorporates this standard. On the criterion of reliability of measurement, the new resistance standard suffers many of the same problems as the old nonconsent standard. The promised improvement in measurement cannot be found in the new resistance standard.

Resistance standards do include some definite behavioral acts that are probably easier to measure than states of mind. But, the replacement of a standard that attempts to measure a state of mind with one that attempts to measure behavioral acts appears to imply the ludicrous notion that attitudes, motivations, emotions, i.e., the state of the mind, are not related to the behavioral acts. The standard of resistance may not only

have failed to improve the reliability of measurement, but it may also have managed to disassociate rape law from the realities of human motivation, thought and behavior. A standard that considers behavioral acts but not the thought connected with them is nonsensical, to say the least.

In reading through new statutes on sexual assault, it seemed that an important element was absent in the standards of resistance. The missing dimension was a full consideration of possible psychological interpretations of nonresistance. Why might a woman fail to resist the attacker? The law allows for nonresistance when it is based on reasonable fear of death or injury. Such an allowance implies that the creators of the laws perceived the victim as acting and thinking rationally, logically, and calmly. Is this expectation reasonable?

Little is known about the psychological reactions of women when they are sexually assaulted, or become aware that an assault is imminent. One distinct possibility though, is that the outwardly calm reaction that is observed in many rape victims immediately after the rape (Burgess & Holmstrom, 1973, 1974) is a continuance of a reaction that sets in when the woman first becomes aware that she is being attacked or is going to be attacked. Perhaps, a woman who is attacked is scared, paralyzed with fear, experiencing thoughts of disbelief -- "this can't be happening" --, and goes into a state of shock that is seen in her behavior after she has been raped. Perhaps those women who

resist are the same women who exhibit uncontrolled, hysterical, agitated reactions immediately after the rape. Finally, might not it be possible that a woman who does not resist fails to do so on the basis of the warnings that are given in the advice literature? New resistance standards, as well as older nonconsent standards do not appear to take any of these possibilities into consideration. In light of these possibilities, and in the absence of solid evidence of psychological meaning and causes of resistance and nonresistance behavior patterns, how can a reasonable and fair standard of nonconsent based on resistance be written and applied?

In the context of advice currently being given to women, the frequency of nonresistance of the attacker by rape victims, the lack of substantial knowledge about the psychological state of mind that corresponds with physical nonresistance, and the possibility that women are in shock not just after the rape but also at its beginning, it appears that popular attitudes ("If a woman hasn't resisted, she hasn't been raped"), the attributions made by the participants in this study to victims who varied in resistance to the attacker, and most seriously, both old and new rape laws are unfair to the victim, by being, at best, ignorant of the psychology of rape, and at worst, sexist and overprotective of the rights of males at the expense of female rights.

Immediate Reaction of the Victim

A similar problem is brought to the surface by the variation in attribution due to differences in the immediate reaction of the victim. Although statutes on sexual assault do not mention the victim's reaction as a factor to be considered, it apparently affects the amount of fault attributed to the victim. There are two sources of unfairness in these attributions. First of all, it is clear from the psychiatric evidence (Sutherland & Scherl, 1970; Washington, 1972; Burgess & Holmstrom, 1973, 1974) that a calm reaction is indicative of shock, and not of enjoyment or pleasure. Second, women are often advised to remain calm after being raped (Medea & Thompson, 1974; Denver District Attorney's Crime Commission, 1974) in order to remember the details of the act and the attacker, and in order not to discard any important pieces of material evidence. But, calmness increases the amount of fault attributed to the victim. Although the attributions may have seemed psychologically just and fair to the participants, these attributions appear to indicate a lack of awareness of the psychological realities of reactions of rape victims, as it has been delineated in psychiatric research.

Sex of Observer

The results concerning sex of observer suggest that females tend to identify with the victim, empathize with her, and therefore attribute less fault to her than males do. Although this

sex difference in attribution could be due to greater male identification with the male accused rapist, this interpretation is doubtful in this case. When the rape scene is one in which the defendant is described as having accosted the victim from behind, at night, in an outdoors setting, it is doubtful that many males would identify with the defendant. If the rape had been described as taking place in an intimate setting, with actors who were sexually acquainted, i.e., touching on the perceived border of rape with seduction, male observers might have been more likely to identify positively with the plight of the accused rapist. Thus, it would seem that male observers in this study were passive observers for this particular case of rape. Females were empathetic observers, who made defensive attributions as the victim-actor would be predicted to make.[6]

Much effort, money, and time has been spent in the social psychological screening of prospective jurors in order to better predict juror reactions. In cases of forcible rape, the sex of the juror is one of a number of indicators of predicted responses to the rape victim that attorneys might want to consider. Since the effect of sex of observer is not extremely large, and since an earlier study (C. Jones & Aronson, 1973) did not find sex differences in attributions of fault, placing a great stress on this single characteristic of the juror would not be advisable. Future research along these lines might be directed to the investigation of the impact of demographic characteristics and

social attitudes on attribution of fault to rape victims. Such research would move in the direction of developing an applied social psychological analysis of reactions to rape victims and rape cases that could eventually be utilized by members of the legal profession.

Fairness in Law and Judgement: An Opinion

Sociologists who study legal process and procedure frequently find evidence of injustice and unfairness. This evidence is found so frequently, and in such large amounts, that some researchers seem to have become desensitized by the volume of this evidence. When we hear someone cry "FOUL", we tend to just sigh and benevolently comment on the naivete of the crier. Of course there is injustice and unfairness (not to mention inequality, bigotry, and a sour taste to the milk of human kindness). We all know that. What else is new?

The tendency of sociologists to be cynical and almost blase when confronted with evidence of injustice has its counterpart in those psychologists who study person perception. Social psychologists have long abandoned the study of the accuracy of person perceptions. When we find yet another example of inaccuracy in person perception, we sigh briefly and go back to the study of phenomenal causality. We tend to stress the questions of how and why the perceiver makes the judgement that he does, while paying very little attention to the objective validity and veridicality of the judgement. Of course people make errors in

their judgement of others. What do you expect?

These two trends are extremely unfortunate. It appears to have become "unfashionable" to exhibit strong reactions of moral outrage when confronted with injustice in legal processes or inaccuracies in person perception processes. While it is important to prevent moral outrage and personal reactions from interfering with ability to analyze, it is also important not to become desensitized to unfairness when we are confronted with it. In this paper, there are many mentions of the unfairness of attributions or of components of laws concerning rape. When confronted with these instances of what I perceived to be "unfair" I found that my reactions were those of moral outrage, as well as those indicative of a desire to understand. From outrage, distress, and anger can come attempts to modify unfairness. Despite, or perhaps, because of the large number of situations in which fairness is not found, it is important that behavioral researchers respond critically in a moral as well as in an analytical manner.

What is a "fair" judgement? Some of the participants in this study made unfair judgements of the described rape victim. Their judgements were unfair to the victim because of the standards of justice they used to make these judgements were not in touch with the realities of rape. Processes that influence the judgement that an observer makes of an actor tend to distort reality. To be accurate, or objectively valid, a judgement

must circumvent the biasing effects of the transitivity, "justice", and intropunitiveness tendencies. A fair judgement is one that is accurate, i.e., one that is veridical with reality.

What is a "fair" law? A fair law is one that is based on the empirical realities of the offense. By incorporating a more informed understanding of sexual assault, new rape statutes have become fairer. Changes such as allowing for members of either sex to be designated as victims and offenders, elimination of the Lord Hale instructions and of corroboration requirements, and the expansion of sexual assault laws to include oral and anal sexual offenses have made rape laws fairer. But changes in the nonconsent standards are not fair. These changes do not appear to recognize the realities of the victim's response to the rape situation. Although legislators are to be commended for their success in modifying some aspects of rape laws, their handling of the nonconsent and resistance components of these laws is still a long way from approaching a reasonable degree of fairness to the victim.

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FOOTNOTES

1. I would like to thank Wayne M. Greenwald for his help in constructing the questionnaire, administering it, and in processing the data. I would also like to thank Al Banwart, Morris Forslund, and Fred Homer for their helpful comments.
2. The arrival of new statutes concerning sexual assault expands this definition considerably. Instead of the word "woman" the new Colorado law has the word "victim," which is defined as "the person alleging to have been subjected to a criminal sexual assault." The perpetrator is also defined without regard to gender. In the new Colorado law, one finds the phrase "sexual penetration" in place of "sexual intercourse." This new term refers to "sexual intercourse, cunnilingus, felatio, analingus, or anal intercourse." It will be very interesting to follow the changes in recording sexual assaults as its legal definition has broadened.
3. In future research, it would be interesting to vary marital status and descriptions of various dimensions of respectability independently.
4. Analysis of responses to other questions about the victim and about the sentencing of the defendant is presently in progress and will be presented at a later time.
5. The self defense techniques described in this book and in

other sources of advice resemble judo and karate techniques.

6. It would be very interesting in future research to systematically attempt to influence the observer so that he or she is more or less empathetic to the victim or offender. The investigation of the factors that would have such an influence would be of important theoretical and practical value.

TABLE 1

MEANS AND STANDARD DEVIATIONS FOR MAIN EFFECTS ON ATTRIBUTION OF FAULT

	n	M	SD
RESISTANCE			
Struggle	224	-5.42	5.08
No Struggle	215	-4.34	5.40
MARITAL STATUS			
Married	149	-5.89	4.99
Virgin	150	-4.70	5.16
Divorced	140	-4.07	5.59
IMMEDIATE REACTION			
Sobbing	218	-5.36	5.39
Controlled	221	-4.40	5.27
SEX OF OBSERVER			
Male	203	-4.39	5.41
Female	236	-5.38	5.11
ALL PARTICIPANTS			
	439	-4.88	5.32